

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JEFFERY JUST,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:18-CV-424 NAB
)	
CITY OF ST. LOUIS, MISSOURI, et al.,)	
)	
Defendants.)	

PLAINTIFF’S MOTION FOR CONTEMPT AGAINST DEFENDANTS

COMES NOW Plaintiff Jeffery Just (“Plaintiff”), by and through his attorney, and for his Motion for Contempt Against Defendants City of St. Louis, Missouri, Defendant Nellie Kuykendall and Defendant Eric Henry (collectively the “Defendants”) respectfully states to this Honorable Court the following:

1. On Tuesday, July 17, 2018, this Honorable Court entered a Memorandum and Order granting Plaintiff’s Motion for Taxation of Costs of Service to be Assessed Against Defendants and for Attorney’s Fees. (*See* Doc. #24).
2. Specifically, this Honorable Court ordered that Defendant City of St. Louis, Missouri was directed to pay \$503.34 to Plaintiff, and Defendants Nellie Kuykendall, and Eric Henry were each directed to pay Plaintiff \$503.33 for the costs of service of summons and attorney’s fees for a total award of \$1,510.00. *Id.*
3. This Court’s Memorandum and Order did not contain a date to which said payment shall be paid to Plaintiff. *Id.*
4. The undersigned interprets the lack of date to mean that the payment shall be made immediately.

5. Despite this interpretation, the undersigned waited thirty (30) days for the Defendants to comply with this Honorable Court's order.

6. On Tuesday, August 21, 2018, the undersigned drafted and sent Defendants' counsel a letter seeking satisfaction of this Court's order. This letter was sent by email and U.S. mail. (*See Plaintiff's Exhibit 1*).

7. On Thursday, August 23, 2018, the undersigned received an email from Defendants' counsel stating in pertinent part:

"...Also, I will figure out what's going on with your owed attorneys fee. I will be in touch this afternoon."

(*See Plaintiff's Exhibit 2*).

8. The undersigned has not received any communication from Defendants' counsel since the aforementioned email was sent. *Id.*

9. Further, the undersigned has not received payment in the amount of \$1,510.00 from the Defendants as ordered by this Honorable Court on July 17, 2018.

10. Rule 4(d)(2) of the Federal Rules of Civil Procedure provides that:

"If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court **must** impose on the defendant:

(A) the expenses later incurred in making service; and
(B) the reasonable expenses, including attorney's fees, **of any motion required to collect those service expenses.**"

Fed.R.Civ.P. 4(d)(2). (*emphasis added*).

11. Plaintiff has incurred additional attorney's fees as for the letter prepared and sent to Defendant's counsel on August 21, 2018 and preparation and filing of this instant motion.

12. The undersigned expended 0.6 hours in the preparation and emailing/mailing the August 21, 2018 letter with attachment.

13. Further, the undersigned has expended an additional 1.3 hours in the preparation and filing of this instant Motion with attached exhibits.

14. As stated before, Plaintiff's undersigned counsel makes contemporaneous records on his hours worked on this case and every case.

15. Plaintiff's undersigned counsel records his time in tenths of hours; that is, every 6 minutes is recorded as 1/10 of an hour.

16. Also, as stated before, Plaintiff's undersigned counsel's current rate on civil rights cases is \$400.00/hour and the undersigned respectfully states that this fee is reasonable.

17. Thus, Plaintiff seeks a total additional amount of \$760.00 as for attorney's fees in 1.9 hours (0.6 hours for the letter and 1.3 hours for this instant motion) expended.

WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests this Honorable Court to grant his Motion for Contempt Against Defendants and for such other relief this Court deems just and proper under the circumstances.

Respectfully submitted,

SCHOTTEL & ASSOCIATES, P.C.

BY: s/James W. Schottel, Jr.

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Attorney for Plaintiff
Jeffery Just

CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2018, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following:

Myles D. McDonnell
McDonnellm@stlouis-mo.gov

Attorney for Defendants
City of St. Louis, Missouri
Nellie Kuykendall
Eric Henry

s/James W. Schottel, Jr.